

**VIRGINIA BOARD OF MEDICINE  
LEGISLATIVE COMMITTEE MINUTES**

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Friday, May 21, 2010

Department of Health Professions

Richmond, VA

**CALL TO ORDER:** The meeting of the Committee convened at 9:00 a.m.

**MEMBERS PRESENT:** Karen Ransone, MD, Vice-President, Chair  
Claudette Dalton, MD  
Gopinath Jadhav, MD  
Juan Montero, MD  
Stuart Mackler, MD  
Ellen Shapiro, DPM

**MEMBERS ABSENT:** Roderick Mathews, JD

**STAFF PRESENT:** William L. Harp, MD, Executive Director  
Jennifer Deschenes, JD, Deputy Director, Discipline  
Barbara Matusiak, MD, Medical Review Coordinator  
Colanthia Morton Opher, Operations Manager  
Amy Marschean, Assistant Attorney General  
Dianne L. Reynolds-Cane, MD, DHP, Director  
Elaine Yeatts, DHP Policy Analyst

**OTHERS PRESENT:** W. Scott Johnson, HDJN  
Tyler Cox, HDJN

**ROLL CALL**

**EMERGENCY EGRESS INSTRUCTIONS**

Dr. Ransone provided the emergency egress Instructions.

**APPROVAL OF MINUTES OF SEPTEMBER 18, 2009**

Dr. Mackler moved to approve the minutes of September 18, 2009 as presented. The motion was seconded and carried.

## **ADOPTION OF AGENDA**

Dr. Harp asked that the agenda be amended to include discussion of adding a statutory link to the Prescription Monitoring Program in 54.1-2915 and an update on the status of proposed regulations. Dr. Dalton moved to accept the agenda as amended. The motion was seconded and carried.

## **PUBLIC COMMENT**

Dr. Ransone extended a welcome to the guests.

There was no public comment.

## **NEW BUSINESS**

### **Regulatory Actions**

#### State of Proposed Regulatory Changes

Ms. Yeatts gave a brief update on the current status of the Board's regulatory actions, including the change in the time to administration in the mixing, diluting and reconstituting regulations. She indicated that this proposed change and the proposals for RA licensure and the revisions to AT provisional licensure are presently in the Secretary's office.

Ms. Yeatts said it is time to prepare any legislation that the Board wishes to be considered by the 2011 Session of the General Assembly. She reminded the Board of its bill last year that was intended to be of a housekeeping nature, making only small, noncontroversial changes to Chapter 29. That bill did not get submitted last year, but she led the committee in a review of it in anticipation of the full Board's consideration of it for the 2011 Session.

**§ 54.1-2904** - Chapter 29 regulates many types of professions other than those listed in the requirement to renew biennially; subsection A should specify that every license shall be renewed biennially. Likewise, the provision about illegal practice with a lapsed license in subsection C should apply to all licensees.

Currently, licenses are typically renewed online and submitted electronically. A notice to renew is sent to licensees but there is no "application" for renewal.

**§ 54.1-2910.01** - (and other sections) - In the definition section (§ 54.1-2900) and in current education and practice, the terminology used is "osteopathic medicine" rather than "osteopathy." Throughout Chapter 29, the terminology should be amended for consistency.

**§ 54.1-2913.1** - The authority for the Board to prescribe regulations governing examinations is moved from § 54.1-2913, which is being deleted.

**§ 54.1-2915** - The Board of Medicine no longer admits candidates to any examination. Persons applying for licensure have been examined by the applicable examining body and submit their scores along with other documentation of qualification for licensure. Therefore, the authority to "refuse to admit a candidate to any examination" is outdated and unnecessary. In other sections of Chapter 29, language relating to admission of candidates to examination is also deleted.

The Board does impose monetary penalties or designates terms in a disciplinary Order, but that authority is currently not specifically listed in this section on unprofessional conduct.

**§ 54.1-2930** - The provision in #4 for waiver of postgraduate training in podiatry has never been used and is inconsistent with qualification for licensure for other professions.

**§ 54.1-2931** - The listing of examinations for licensure to practice medicine and osteopathic medicine is updated for consistency with all examinations currently accepted by the Board.

**§ 54.1-2949** - There is no category of licensee with the title of "podiatrist's assistant;" the Board only licenses "physician assistants" so the terms are amended or deleted for consistency and clarity.

**§ 54.1-2953** - A physician assistant renews his license biennially; approval for employment does not expire at the end of one year, as this section currently requires. Additionally, a new application is not required for renewal.

**§ 54.1-2957.4** - Language in subsection A is now outdated since regulations for licensure have been in effect for several years.

The Committee unanimously agreed to recommend to the Full Board the foregoing language changes to Chapter 29.

Dr. Shapiro moved that the title "podiatry" be updated to reflect "podiatric medicine" throughout Chapter 29. The motion was seconded and carried.

Dr. Jadhav questioned the appropriateness of the number of years of postgraduate training required in 54.1-2930. He asked staff to try to recover data that could help objectively measure the competency of applicants that have appeared before the Credentials Committee (how many completed one-year and then went into private practice).

During the discussion, Dr. Harp pointed out to the Committee that there is currently no requirement in the law or regulations that an applicant complete at least twelve months of postgraduate training in one program, but rather can meet the twelve month requirement by serving in two or more programs.

After further discussion, Dr. Reynolds-Cane suggested that Dr. Harp correspond with Neal Kauder to determine what, if any, information can be provided to assist with this issue.

This item will be discussed at the next Legislative meeting September 17, 2010.

#### Physician Assistant Requirements for Renewal

Ms. Yeatts advised the Committee that the Advisory Board on Physician Assistants recommended that the requirement in 18VAC85-50-56B be removed from their regulations. The Advisory Board agreed that the requirement of maintaining current NCCPA certification in order to remain licensed in the Commonwealth was an undue burden to the licensees, especially those who have been in specialty practice for years, as the recertification examinations are more general in nature.

After discussion, the Committee agreed that, in light of the modifications to the physician assistants' maintenance on competency process being developed by the NCCPA that would encompass a broader range of competencies, it would be advisable at this time to continue operating with the current regulations. Dr. Jadhav moved to deny the recommendation of the Advisory Board on Physician Assistants. The motion was seconded and carried.

#### Proposed Change to 54.1-2900 definition of Athletic Training

Ms. Yeatts advised that the Advisory Board on Athletic Training is asking for the Board to consider including in its legislative packet the deletion of the title/profession "physical therapist" from their definition.

Dr. Dalton moved to accept the Advisory Board's recommendation. The motion was seconded and carried.

#### Proposed Change to 54.1-2912.3 on Competency Assessment

Dr. Harp reviewed the 2005 law that requires a licensee of the Board of Medicine to undergo a competency assessment if he/she has accrued three paid claims in the most recent 10 years. He pointed out that there is no qualifier on the term "licensee, and that the assessments must be completed within twelve months of notification by the Board.

He advised the Committee a significant portion of those identified for assessment have been retired licensees, those holding inactive or volunteer licenses, and those not practicing in Virginia and with no intention to do so in the future. Dr. Harp asked the Committee to consider an amendment to the law that would to create efficiency for the Board without compromising the protection of the public.

After discussion, the Committee agreed with the concerns and suggested that Ms. Marschean, board staff and a representative from MSV meet to develop proposed language for consideration at the June 10<sup>th</sup> full board meeting.

54.1-2915 – Unprofessional conduct; grounds for refusal or disciplinary action

The issue at hand was how to link the Board's authority in 54.1-2915 to the PMP confidentiality requirement in 54.1-2525. After discussion, it was determined that the requirement could be written into the Board's regulations on confidentiality, rather than having to seek a legislative change at the General Assembly. Dr. Montero moved to amend Board Regulation 18VAC85-20-27 by adding language that would make it unprofessional conduct to improperly release confidential information obtained from the Prescription Monitoring Program. As this tracks the law, it should be possible for this regulation to be approved by the exempt process.

**Next meeting** – September 17, 2010

**Adjournment** - With no other business to conduct, the meeting adjourned at 10:39 a.m.

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Karen Ransone, M. D., Vice-President  
Chair

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William L. Harp, M.D.  
Executive Director

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Colanthia M. Opher  
Recording Secretary